

RECORDATION NO 16504
FILED 165

9-250A023

SEP 7 1989 - 12 05 PM

INTERSTATE COMMERCE COMMISSION

WILMER, CUTLER & PICKERING
2445 M STREET, N. W.
WASHINGTON, D. C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 293-0074.
293-5929, 429-4930, 429-9893
TELEX 440239 WCPI UI,
892402 WICRNG WSH
ABA NET ABA1354
SOURCE WCP001

ALLEN H HARRISON, JR

DIRECT LINE (202)

663-6093

SEP 7 1989 - 12 05 PM

INTERSTATE COMMERCE COMMISSION

EUROPEAN OFFICE
4 CARLTON GARDENS
PALL MALL

LONDON SW1Y 5AA, ENGLAND
PHONE 011 (441) 839-4466
FACSIMILE 011 (441) 839-3537
TELEX 8813918 WCP LON

RECORDATION NO

16504

FILED 165

SEP 7 1989 - 12 05 PM

September 7, 1989 INTERSTATE COMMERCE COMMISSION

(File 120)

52 felony fees

Dear Mrs. McGee:

On behalf of The CIT Group/Equipment Financing, Inc., I submit for filing and recording under 49 U.S.C. Section 11303 (a) and the regulations promulgated thereunder, three (3) counterparts of a certified true primary document, not previously recorded, entitled Fleet Rental Security Agreement ("Security Agreement") dated February 22, 1989. Also submitted for filing and recording are the following related secondary documents, not previously recorded, as follows:

- A Memorandum of Car Leasing Agreement ("Lease"), acknowledged March 22, 1989, - executed counterpart and two (2) certified true copies,
- B Assignment of Lease - Full Recourse ("Assignment No. 1"), executed February 22, 1989, - three (3) certified true copies, and
- C Assignment to The CIT Group/Group Equipment Financing, Inc. (sic), ("Assignment No. 2"), dated February 22, 1989 - three (3) certified true copies

The parties to the enclosed Security Agreement are:

The CIT Group/Equipment Financing, Inc. - Secured Party
2877 Brandywine Road
Atlanta, GA 30341

Hargis Leasing, Inc. - Debtor
200 Tremon Street
Gordon, GA 31301

The Security Agreement covers a security interest in ten (10) tank cars for a loan of \$578,000 from the Secured Party to the Debtor.

The parties to the enclosed Lease are:
Hargis Railcar, Inc. - Lessor
200 Tremon Street
Gordon, GA 31301

Rec'd
Receivable

Carried up in H. H. Harrison

Nord Resources Corporation
Nord Kaolin Division - Lessee
8150 Washington Village Drive
Dayton, Ohio 45458

The Lease covers the lease of the same ten (10) tank cars that are in the Security Agreement.

The parties to the enclosed Assignment No. 1 are:
Hargis Railcar, Inc. - Assignor
200 Tremon Street
Gordon, GA 31301

Hargis Leasing, Inc. - Assignee
200 Tremon Street
Gordon, GA 31301

The Assignment No. 1 assigns the right, title and interest of the Lessor in the above Lease to the Assignee.

The parties to the enclosed Assignment No. 2 are:

Hargis Leasing, Inc. - Assignor
200 Tremon Street
Gordon, Georgia 31301

The CIT Group/Equipment Financing, Inc. - Assignee
2877 Brandywine Road
Atlanta, GA 30341

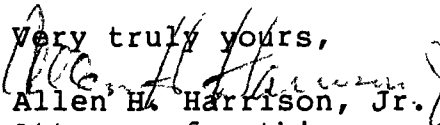
The Assignment No. 2 assigns the right, title and interest of the Lessor by assignment, Hargis Leasing, Inc., in the above Lease to the Assignee.

A short summary for all documents to appear in the ICC Index is as follows:

"Covers 10 tank cars, HARX1000-1009"

Enclosed are two checks each in the amount of twenty-six (\$26) dollars (total of \$52) in payment of the filing fees.

Once the filings have been made, please return to bearer the stamped counterparts of the four enclosed documents not needed for your files, together with the fee receipt, the letter from the ICC acknowledging the filings, and the two extra copies of this transmittal letter.

Very truly yours,

Allen H. Harrison, Jr.
Attorney for this purpose
of this filing for
The CIT Group/Equipment Financing, Inc.

Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Enclosures

AHH/mjg
BY HAND

Interstate Commerce Commission
Washington, D.C. 20423

9/7/89

OFFICE OF THE SECRETARY

Allen H. Harrison Jr.
Wilmer, Cutler & Pickering
2445 M. St. N.W.
Washington, D.C. 20037-1420

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 9/7/89 at 12:05pm and assigned recordation number(s). 16504, 16504-A, 16504-B, 16504-C 16505, & 16506

Sincerely yours,



Noreta R. McGee
Secretary

Enclosure(s)

To: Hargis Leasing, Inc.

Re: Lease between Nord Resources, Inc., Nord Kaolin Division as lessee, ("Buyer") and undersigned, dated April 27, 1988, having aggregate unpaid rentals of \$342,000.00. For value received undersigned ("Assignor") hereby sells, assigns, transfers, and sets over to Hargis Leasing, Inc., its successors and assigns ("Assignee"), the annexed above-named lease ("contract"), together with (i) all of Assignor's right, title and interest in the property covered by and described in the lease (hereinafter described as "property" or "security") and (ii) all rental payments due and to become due thereunder, and all moneys due and to become due in connection with the exercise by lessee of an option, if any, to purchase the security.

Assignor also assigns to Assignee all of the Assignor's rights and remedies under the contract and any guaranty thereof, including the right to take, in Assignor's or Assignee's name, any and all proceedings, legal, equitable, or otherwise, that Assignor might otherwise take, save for this assignment.

To secure all amounts due to Assignor under the contract, and all other present and future indebtedness or obligations of Assignor to Assignee of every kind and nature whatsoever, Assignor hereby grants to Assignee a security interest in all property covered by and described in the contract.

Assignee shall have no obligations of Assignor as lessor under the contract.

Assignor warrants that: Assignor is the owner of the property described in the contract free of all liens and encumbrances except the contract; the contract and any accompanying guaranties, waivers and/or other instruments are genuine, collectible, enforceable, the only contract executed concerning the property described in the contract and is and will continue free from defenses, set-offs and counterclaims; all signatures, names, addresses, amounts and other statements and facts contained therein are true and correct; the transaction described in the contract conforms to all applicable laws and regulations; the present unpaid balance shown above is correct; the property has been delivered to Buyer under the contract on the date set forth below in satisfactory condition and has been accepted by Buyer, and that Assignor will comply with all its obligations with respect thereto; the contract constitutes and will continue to constitute a valid reservation of unencumbered title to or first lien upon the property covered thereby, effective against all persons; if filing, recordation or any other action or procedure is permitted or required by statute or regulation to perfect such reservation of title or lien, the same has been accomplished. Assignor guarantees the payment promptly when due of the amount of each and every instalment payable under the contract and the payment on demand of the entire unpaid balance at the date of default in the event of any default by Buyer under the contract, without first requiring Assignee to proceed against Buyer or any other person or any security. In the event that Assignee reasonably determines that Assignor has or may have breached any of the terms hereof (including its guaranty of payment) or any of its warranties with respect to the contract or the guaranty Assignor will, upon Assignee's request, promptly repurchase the contract for any amount equal to the unpaid balance thereof, including accrued interest, plus any expenses of collection, repossession, transportation and storage incurred by Assignee, including attorneys' fees and costs, less any customary refund by Assignee of unearned charges. In addition, Assignor shall indemnify and save Assignee harmless from any loss, damage or expense, including attorneys' fees, incurred by Assignee as a result of Assignor's breach of any of the terms of this assignment or any of the warranties, obligations or undertakings described herein. Assignor agrees that Assignee may audit its books and records relating to all paper assigned to Assignee and may in Assignor's name endorse all accompanying notes and all remittances received. Assignor waives notice of acceptance hereof as well as presentment, demand, protest and notice of non-payment and protest as to all contracts heretofore, now, or hereafter signed, accepted, endorsed or assigned to Assignee. Assignor waives all exemptions and homestead laws and any other demands and notices required by law, and Assignor waives all set-offs and counterclaims. Assignee may at any time, without consent of Assignor, without notice to Assignor and without affecting or impairing the obligations of Assignor hereunder, do any of the following: (a) renew, extend, modify, release or discharge any obligation of a Buyer or any persons obligated on the contract or on any accompanying guaranty, ("the contract obligations"); (b) accept partial payments of the contract obligations; (c) accept new or additional documents, instruments or agreements relating to or in substitution of the contract obligations; (d) settle, release (by operation of law or otherwise), compromise, compromise, collect or liquidate any of the contract obligations and the security therefor in any manner; (e) consent to the transfer or return of security and take and hold additional security or guaranties for the contract obligations; (f) amend, exchange, release or waive any security or guaranty; or (g) bid and purchase at any sale of the contract or security and apply any proceeds and security and direct the order and manner of sale. No payment by Assignor hereunder shall entitle Assignor, by subrogation or otherwise, to any payment from Buyer except after the full payment and performance of all Buyer's obligations to Assignee. Unless otherwise agreed under the provisions of an applicable underlying agreement, any amounts retained by Assignee as a reserve or holdback shall be held by Assignee as security for the performance of Assignor's obligations under the underlying agreement and hereunder, and shall be paid to Assignor without interest, when all payments under the contract have been paid in full, provided no obligation of any kind, direct or contingent, of Assignor whether hereunder or otherwise and no other paper acquired by Assignee from Assignor or from any of Assignor's subsidiary or affiliated companies be in default; but in the event of any such default, Assignee may collect any amount owing by making an appropriate charge against any reserve or holdback which otherwise would be payable to Assignor in cash. Assignor shall have no authority to, and will not, without Assignee's prior written consent, accept collections, repossess or consent to the return of the property described in the contract or modify the terms thereof or of any accompanying guaranty. Assignee's knowledge at any time of any breach of or non-compliance with any of the foregoing shall not constitute any waiver by Assignee. Assignor agrees that Assignee may transfer unencumbered title to the contract, and interest in the property described in the contract, and that the transferee shall be deemed an assignee hereunder. Assignor agrees, however, to look only to the above-named Assignee for payment of any reserve or holdback.

The property covered by the contract was delivered to Buyer on 2/22, 1989

Executed the 22 day of February, 1989

200 Tremont Street

Cordova, Georgia 31031
Lessor's City and State

Lessor

Assignor

Hargis Railcar, Inc.

By

Harry W. Hargis Title Pres.
If corporation, have signed by President, Vice
President or Treasurer, give official title.
If owner or partner, state which.

RECORDATION NO. 16504
SEP 7 1989 - 12 05 PM
INTERSTATE COMMERCE COMMISSION

State of GEORGIA
County of ~~SAND~~ WILKINSON SS.:

I MARGARET A. SIMS., a Notary Public duly qualified in and for said county, have compared the (attached) copy of an original document entitled Assignment of Lease-Full Recourse dated February 22, 1989, and executed by Hargis Railcar, Inc. and do hereby
(name of Company)
certify that the (above or attached) copy is complete and identical in all respects to the original document.

Witness my hand and seal this 22 day of February 1989.

Notary Seal

Margaret A. Sims
Signature of Notary

Wilkinson County, GA
State

My commission expires 2-9-90